

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:22-CR-00216-DGK-01
	)	
RICHARD W. RUSTON,	)	
	)	
Defendant.	)	

**ORDER ADOPTING THE MAGISTRATE’S REPORT AND RECOMMENDATION**  
**DENYING DEFENDANT’S MOTION TO DISMISS**

Now before the Court is Defendant’s motion to dismiss counts three and four of the second superseding indictment charging Defendant with unlawful possession of a firearm by a felon and unlawful possession of ammunition by a felon, in violation of of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8), because the statute is unconstitutional on its face and as applied to Defendant. ECF No. 48. Also before the Court are Magistrate Judge Jill A. Morris’s Report and Recommendation (“the Report”) recommending the motion be denied, ECF No. 52, and Defendant’s objections to the report and recommendation, ECF No. 53.

Defendant argues the Eighth Circuit wrongly decided *United States v. Jackson*, 110 F.4th 1120 (8th Cir. 2024), which held the statute is constitutional because a categorical exclusion of felons from Second Amendment protections is consistent with this Nation’s historical tradition of firearm regulation.

A district court such as this one is bound by Eighth Circuit precedent. After reviewing the Report and conducting an independent review of the applicable law and record, *see* L.R. 74.1(a)(2), the Court agrees with the Magistrate’s holding that the motion should be denied for the reasons stated in the Report.

Accordingly, the Court ADOPTS the Report and Recommendation and DENIES Defendant's motion to dismiss.

**IT IS SO ORDERED.**

Date: December 6, 2024

/s/ Greg Kays  
GREG KAYS, JUDGE  
UNITED STATES DISTRICT COURT